

Assembly Bill No. 2474

CHAPTER 835

An act to amend Section 3011 of the Family Code, relating to family law.

[Approved by Governor September 22, 1996. Filed
with Secretary of State September 24, 1996.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2474, Kuehl. Child custody.

Existing law requires the court, in making a determination of the best interest of the child in a proceeding involving child custody, to consider specified factors, including any history of abuse by one parent against the child or against the other parent.

This bill would require the court to consider any history of abuse by one parent or any other person seeking custody against specified persons. The bill would make a related change.

This bill would incorporate additional changes to Section 3011 of the Family Code proposed by SB 384, to become operative only if SB 384 and this bill are both chaptered and become effective on or before January 1, 1997, and this bill is chaptered last.

The people of the State of California do enact as follows:

SECTION 1. Section 3011 of the Family Code is amended to read:

3011. In making a determination of the best interest of the child in a proceeding described in Section 3021, the court shall, among any other factors it finds relevant, consider all of the following:

(a) The health, safety, and welfare of the child.

(b) Any history of abuse by one parent or any other person seeking custody against any of the following:

(1) Any child to whom he or she is related by blood or affinity or with whom he or she has had a caretaking relationship, no matter how temporary.

(2) The other parent.

(3) A parent, current spouse, or cohabitant, of the parent or person seeking custody, or a person with whom the parent or person seeking custody has a dating or engagement relationship.

As a prerequisite to the consideration of allegations of abuse, the court may require substantial independent corroboration, including, but not limited to, written reports by law enforcement agencies, child protective services or other social welfare agencies, courts, medical facilities, or other public agencies or private nonprofit organizations providing services to victims of sexual assault or

domestic violence. As used in this subdivision, “abuse against a child” means “child abuse” as defined in Section 11165.6 of the Penal Code and abuse against any of the other persons described in paragraph (2) or (3) means “abuse” as defined in Section 6203 of this code.

(c) The nature and amount of contact with both parents.

SEC. 1.5. Section 3011 of the Family Code is amended to read:

3011. In making a determination of the best interest of the child in a proceeding described in Section 3021, the court shall, among any other factors it finds relevant, consider all of the following:

(a) The health, safety, and welfare of the child.

(b) Any history of abuse by one parent or any other person seeking custody against any of the following:

(1) Any child to whom he or she is related by blood or affinity or with whom he or she has had a caretaking relationship, no matter how temporary.

(2) The other parent.

(3) A parent, current spouse, or cohabitant, of the parent or person seeking custody, or a person with whom the parent or person seeking custody has a dating or engagement relationship.

As a prerequisite to the consideration of allegations of abuse, the court may require substantial independent corroboration, including, but not limited to, written reports by law enforcement agencies, child protective services or other social welfare agencies, courts, medical facilities, or other public agencies or private nonprofit organizations providing services to victims of sexual assault or domestic violence. As used in this subdivision, “abuse against a child” means “child abuse” as defined in Section 11165.6 of the Penal Code and abuse against any of the other persons described in paragraph (2) or (3) means “abuse” as defined in Section 6203 of this code.

(c) The nature and amount of contact with both parents.

(d) The habitual or continual illegal use of controlled substances or habitual or continual abuse of alcohol by either parent. Before considering these allegations, the court may first require independent corroboration, including, but not limited to, written reports from law enforcement agencies, courts, probation departments, social welfare agencies, medical facilities, rehabilitation facilities, or other public agencies or nonprofit organizations providing drug and alcohol abuse services. As used in this subdivision, “controlled substances” has the same meaning as defined in the California Uniform Controlled Substances Act, Division 10 (commencing with Section 11000) of the Health and Safety Code.

SEC. 2. Section 1.5 of this bill incorporates amendments to Section 3011 of the Family Code proposed by both this bill and SB 384. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1997, (2) each bill amends

Section 3011 of the Family Code, and (3) this bill is enacted after SB 384, in which case Section 1 of this bill shall not become operative.

O

